

**94TH GENERAL ASSEMBLY****State of Illinois****2005 and 2006****SB0511**

Introduced 2/17/2005, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

750 ILCS 50/7	from Ch. 40, par. 1509
750 ILCS 50/8	from Ch. 40, par. 1510
750 ILCS 50/18.3a	from Ch. 40, par. 1522.3a

Amends the Adoption Act. Provides that the sole purpose of notice shall be to enable the person receiving the notice to appear in the adoption proceedings to present evidence to the court relevant to whether the consent or surrender of the person to the adoption is required by the Act (instead of to present evidence to the court relevant to the best interests of the child). Provides that, if the court determines that the consent or surrender of the person is not required, then the person shall not be entitled to participate in the proceedings or to any further notice of the proceedings. Adds to the exceptions to the requirement for consent and surrender: (i) the father of the child who is a family member of the mother of the child and the mother is under the age of 18 at the time of the child's conception; and (ii) the father of the child who is at least 5 years older than the child's mother and the mother was under the age of 17 at the time of child's conception, unless the mother and father voluntarily acknowledge the father's paternity of the child by marrying or by establishing the father's paternity by consent of the parties pursuant to the Illinois Parentage Act of 1984 or pursuant to a substantially similar statute in another state. Defines "family member". Removes from the exceptions to the requirement for consent and surrender a person who has been indicated for child sexual abuse as defined in the Abused and Neglected Child Reporting Act that involved sexual penetration of the mother and a person who was at least 5 years older than the mother and the mother was under the age of 17 at the time of conception of the child to be adopted. Removes any employee of a licensed child welfare agency certified by the agency as qualified to serve as a confidential intermediary from the list of eligible intermediaries.

LRB094 09016 LCB 39237 b

1 AN ACT concerning adoption.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Adoption Act is amended by changing Sections
5 7, 8, and 18.3a as follows:

6 (750 ILCS 50/7) (from Ch. 40, par. 1509)

7 Sec. 7. Process.

8 A. All persons named in the petition for adoption or
9 standby adoption, other than the petitioners and any party who
10 has previously either denied being a parent pursuant to Section
11 12a of this Act or whose rights have been terminated pursuant
12 to Section 12a of this Act, but including the person sought to
13 be adopted, shall be made parties defendant by name, and if the
14 name or names of any such persons are alleged in the petition
15 to be unknown such persons shall be made parties defendant
16 under the name and style of "All whom it may concern". In all
17 such actions petitioner or his attorney shall file, at the
18 office of the clerk of the court in which the action is
19 pending, an affidavit showing that the defendant resides or has
20 gone out of this State, or on due inquiry cannot be found, or
21 is concealed within this State, so that process cannot be
22 served upon him, and stating the place of residence of the
23 defendant, if known, or that upon diligent inquiry his place of
24 residence cannot be ascertained, the clerk shall cause
25 publication to be made in some newspaper published in the
26 county in which the action is pending. If there is no newspaper
27 published in that county, then the publication shall be in a
28 newspaper published in an adjoining county in this State,
29 having a circulation in the county in which such action is
30 pending. In the event there is service on any of the parties by
31 publication, the publication shall contain notice of pendency
32 of the action, the name of the person to be adopted and the

1 name of the parties to be served by publication, and the date
2 on or after which default may be entered against such parties.
3 Neither the name of petitioners nor the name of any party who
4 has either surrendered said child, has given their consent to
5 the adoption of the child, or whose parental rights have been
6 terminated by a court of competent jurisdiction shall be
7 included in the notice of publication. The Clerk shall also,
8 within ten (10) days of the first publication of the notice,
9 send a copy thereof by mail, addressed to each defendant whose
10 place of residence is stated in such affidavit. The certificate
11 of the Clerk that he sent the copies pursuant to this section
12 is evidence that he has done so. Except as provided in this
13 section pertaining to service by publication, all parties
14 defendant shall be notified of the proceedings in the same
15 manner as is now or may hereafter be required in other civil
16 cases or proceedings. Any party defendant who is of age of 14
17 years or upward may waive service of process by entering an
18 appearance in writing. The form to be used for publication
19 shall be substantially as follows: "ADOPTION NOTICE - STATE OF
20 ILLINOIS, County of, ss. - Circuit Court of County.
21 In the matter of the Petition for the Adoption of, a
22 ..male child. Adoption No. To-- (whom it may concern
23 or the named parent) Take notice that a petition was filed in
24 the Circuit Court of County, Illinois, for the adoption of
25 a child named, Now, therefore, unless you, and all
26 whom it may concern, file your answer to the Petition in the
27 action or otherwise file your appearance therein, in the said
28 Circuit Court of, County, Room,, in the City of
29, Illinois, on or before the day of, a default
30 may be entered against you at any time after that day and a
31 judgment entered in accordance with the prayer of said
32 Petition. Dated,, Illinois,, Clerk. (Name and
33 address of attorney for petitioners.)

34 B. A minor defendant who has been served in accordance with
35 this Section may be defaulted in the same manner as any other
36 defendant.

1 C. Notwithstanding any inconsistent provision of this or
2 any other law, and in addition to the notice requirements of
3 any law pertaining to persons other than those specified in
4 this subsection, the persons entitled to notice that a petition
5 has been filed under Section 5 of this Act shall include:

6 (a) any person adjudicated by a court in this State to
7 be the father of the child;

8 (b) any person adjudicated by a court of another state
9 or territory of the United States to be the father of the
10 child, when a certified copy of the court order has been
11 filed with the Putative Father Registry under Section 12.1
12 of this Act;

13 (c) any person who at the time of the filing of the
14 petition is registered in the Putative Father Registry
15 under Section 12.1 of this Act as the putative father of
16 the child;

17 (d) any person who is recorded on the child's birth
18 certificate as the child's father;

19 (e) any person who is openly living with the child or
20 the child's mother at the time the proceeding is initiated
21 and who is holding himself out to be the child's father;

22 (f) any person who has been identified as the child's
23 father by the mother in a written, sworn statement,
24 including an Affidavit of Identification as specified
25 under Section 11 of this Act;

26 (g) any person who was married to the child's mother on
27 the date of the child's birth or within 300 days prior to
28 the child's birth.

29 The sole purpose of notice under this Section shall be to
30 enable the person receiving notice to appear in the adoption
31 proceedings to present evidence to the court relevant to
32 whether the consent or surrender of the person to the adoption
33 is required pursuant to Section 8 of this Act. If the court
34 determines that the consent or surrender of the person is not
35 required pursuant to Section 8, then the person shall not be
36 entitled to participate in the proceedings or to any further

1 notice of the proceedings ~~the best interests of the child.~~

2 (Source: P.A. 91-572, eff. 1-1-00.)

3 (750 ILCS 50/8) (from Ch. 40, par. 1510)

4 Sec. 8. Consents to adoption and surrenders for purposes of
5 adoption.

6 (a) Except as hereinafter provided in this Section consents
7 or surrenders shall be required in all cases, unless the person
8 whose consent or surrender would otherwise be required shall be
9 found by the court:

10 (1) to be an unfit person as defined in Section 1 of
11 this Act, by clear and convincing evidence; or

12 (2) not to be the biological or adoptive father of the
13 child; or

14 (3) to have waived his parental rights to the child
15 under Section 12a or 12.1 of this Act; or

16 (4) to be the parent of an adult sought to be adopted;
17 or

18 (5) to be the father of the child as a result of
19 criminal sexual abuse or assault as defined under Article
20 12 of the Criminal Code of 1961, including but not limited
21 to:

22 (i) the father of the child, who is a family member
23 of the mother of the child, and the mother is under the
24 age of 18 at the time of the child's conception; for
25 purposes of this subsection, a "family member" is a
26 parent, step-parent, grandparent, step-grandparent,
27 sibling; or cousin of the first degree, whether by
28 whole blood, half-blood, or adoption, as well as a
29 person who has resided in the household with the mother
30 continuously for at least one year; or

31 (ii) the father of the child, who is at least 5
32 years older than the child's mother, and the mother was
33 under the age of 17 at the time of child's conception,
34 unless the mother and father voluntarily acknowledge
35 the father's paternity of the child by marrying or by

1 establishing the father's paternity by consent of the
2 parties pursuant to the Illinois Parentage Act of 1984
3 or pursuant to a substantially similar statute in
4 another state.

5 A criminal conviction of any offense pursuant to
6 Article 12 of the Criminal Code of 1961 is not required.†

7 ~~or~~

8 ~~(6) to have been indicated for child sexual abuse as~~
9 ~~defined in the Abused and Neglected Child Reporting Act~~
10 ~~that involved sexual penetration of the mother; or~~

11 ~~(7) to be at least 5 years older than the mother and~~
12 ~~the mother was under the age 17 at the time of conception~~
13 ~~of the child to be adopted.~~

14 (b) Where consents are required in the case of an adoption
15 of a minor child, the consents of the following persons shall
16 be sufficient:

17 (1) (A) The mother of the minor child; and

18 (B) The father of the minor child, if the father:

19 (i) was married to the mother on the date of
20 birth of the child or within 300 days before the
21 birth of the child, except for a husband or former
22 husband who has been found by a court of competent
23 jurisdiction not to be the biological father of the
24 child; or

25 (ii) is the father of the child under a
26 judgment for adoption, an order of parentage, or an
27 acknowledgment of parentage or paternity pursuant
28 to subsection (a) of Section 5 of the Illinois
29 Parentage Act of 1984; or

30 (iii) in the case of a child placed with the
31 adopting parents less than 6 months after birth,
32 openly lived with the child, the child's
33 biological mother, or both, and held himself out to
34 be the child's biological father during the first
35 30 days following the birth of the child; or

36 (iv) in the case of a child placed with the

1 adopting parents less than 6 months after birth,
2 made a good faith effort to pay a reasonable amount
3 of the expenses related to the birth of the child
4 and to provide a reasonable amount for the
5 financial support of the child before the
6 expiration of 30 days following the birth of the
7 child, provided that the court may consider in its
8 determination all relevant circumstances,
9 including the financial condition of both
10 biological parents; or

11 (v) in the case of a child placed with the
12 adopting parents more than 6 months after birth,
13 has maintained substantial and continuous or
14 repeated contact with the child as manifested by:
15 (I) the payment by the father toward the support of
16 the child of a fair and reasonable sum, according
17 to the father's means, and either (II) the father's
18 visiting the child at least monthly when
19 physically and financially able to do so and not
20 prevented from doing so by the person or authorized
21 agency having lawful custody of the child, or (III)
22 the father's regular communication with the child
23 or with the person or agency having the care or
24 custody of the child, when physically and
25 financially unable to visit the child or prevented
26 from doing so by the person or authorized agency
27 having lawful custody of the child. The subjective
28 intent of the father, whether expressed or
29 otherwise unsupported by evidence of acts
30 specified in this sub-paragraph as manifesting
31 such intent, shall not preclude a determination
32 that the father failed to maintain substantial and
33 continuous or repeated contact with the child; or

34 (vi) in the case of a child placed with the
35 adopting parents more than six months after birth,
36 openly lived with the child for a period of six

1 months within the one year period immediately
2 preceding the placement of the child for adoption
3 and openly held himself out to be the father of the
4 child; or

5 (vii) has timely registered with Putative
6 Father Registry, as provided in Section 12.1 of
7 this Act, and prior to the expiration of 30 days
8 from the date of such registration, commenced
9 legal proceedings to establish paternity under the
10 Illinois Parentage Act of 1984 or under the law of
11 the jurisdiction of the child's birth; or

12 (2) The legal guardian of the person of the child, if
13 there is no surviving parent; or

14 (3) An agency, if the child has been surrendered for
15 adoption to such agency; or

16 (4) Any person or agency having legal custody of a
17 child by court order if the parental rights of the parents
18 have been judicially terminated, and the court having
19 jurisdiction of the guardianship of the child has
20 authorized the consent to the adoption; or

21 (5) The execution and verification of the petition by
22 any petitioner who is also a parent of the child sought to
23 be adopted shall be sufficient evidence of such parent's
24 consent to the adoption.

25 (c) Where surrenders to an agency are required in the case
26 of a placement for adoption of a minor child by an agency, the
27 surrenders of the following persons shall be sufficient:

28 (1) (A) The mother of the minor child; and

29 (B) The father of the minor child, if the father:

30 (i) was married to the mother on the date of
31 birth of the child or within 300 days before the
32 birth of the child, except for a husband or former
33 husband who has been found by a court of competent
34 jurisdiction not to be the biological father of the
35 child; or

36 (ii) is the father of the child under a

1 judgment for adoption, an order of parentage, or an
2 acknowledgment of parentage or paternity pursuant
3 to subsection (a) of Section 5 of the Illinois
4 Parentage Act of 1984; or

5 (iii) in the case of a child placed with the
6 adopting parents less than 6 months after birth,
7 openly lived with the child, the child's
8 biological mother, or both, and held himself out to
9 be the child's biological father during the first
10 30 days following the birth of a child; or

11 (iv) in the case of a child placed with the
12 adopting parents less than 6 months after birth,
13 made a good faith effort to pay a reasonable amount
14 of the expenses related to the birth of the child
15 and to provide a reasonable amount for the
16 financial support of the child before the
17 expiration of 30 days following the birth of the
18 child, provided that the court may consider in its
19 determination all relevant circumstances,
20 including the financial condition of both
21 biological parents; or

22 (v) in the case of a child placed with the
23 adopting parents more than six months after birth,
24 has maintained substantial and continuous or
25 repeated contact with the child as manifested by:
26 (I) the payment by the father toward the support of
27 the child of a fair and reasonable sum, according
28 to the father's means, and either (II) the father's
29 visiting the child at least monthly when
30 physically and financially able to do so and not
31 prevented from doing so by the person or authorized
32 agency having lawful custody of the child or (III)
33 the father's regular communication with the child
34 or with the person or agency having the care or
35 custody of the child, when physically and
36 financially unable to visit the child or prevented

1 from doing so by the person or authorized agency
2 having lawful custody of the child. The subjective
3 intent of the father, whether expressed or
4 otherwise, unsupported by evidence of acts
5 specified in this sub-paragraph as manifesting
6 such intent, shall not preclude a determination
7 that the father failed to maintain substantial and
8 continuous or repeated contact with the child; or

9 (vi) in the case of a child placed with the
10 adopting parents more than six months after birth,
11 openly lived with the child for a period of six
12 months within the one year period immediately
13 preceding the placement of the child for adoption
14 and openly held himself out to be the father of the
15 child; or

16 (vii) has timely registered with the Putative
17 Father Registry, as provided in Section 12.1 of
18 this Act, and prior to the expiration of 30 days
19 from the date of such registration, commenced
20 legal proceedings to establish paternity under the
21 Illinois Parentage Act of 1984, or under the law of
22 the jurisdiction of the child's birth.

23 (d) In making a determination under subparagraphs (b) (1)
24 and (c) (1), no showing shall be required of diligent efforts by
25 a person or agency to encourage the father to perform the acts
26 specified therein.

27 (e) In the case of the adoption of an adult, only the
28 consent of such adult shall be required.

29 (Source: P.A. 93-510, eff. 1-1-04.)

30 (750 ILCS 50/18.3a) (from Ch. 40, par. 1522.3a)

31 Sec. 18.3a. Confidential intermediary.

32 (a) General purposes. Notwithstanding any other provision
33 of this Act, any adopted person 21 years of age or over, any
34 adoptive parent or legal guardian of an adopted person under
35 the age of 21, or any birth parent of an adopted person who is

1 21 years of age or over may petition the court in any county in
2 the State of Illinois for appointment of a confidential
3 intermediary as provided in this Section for the purpose of
4 exchanging medical information with one or more mutually
5 consenting biological relatives, obtaining identifying
6 information about one or more mutually consenting biological
7 relatives, or arranging contact with one or more mutually
8 consenting biological relatives. Additionally, in cases where
9 an adopted or surrendered person is deceased, an adult child of
10 the adopted or surrendered person may file a petition under
11 this Section and in cases where the birth parent is deceased,
12 an adult birth sibling of the adopted person or of the deceased
13 birth parent may file a petition under this Section for the
14 purpose of exchanging medical information with one or more
15 mutually consenting biological relatives, obtaining
16 identifying information about one or more mutually consenting
17 biological relatives, or arranging contact with one or more
18 mutually consenting biological relatives.

19 (b) Petition. Upon petition by an adopted person 21 years
20 of age or over, an adoptive parent or legal guardian of an
21 adopted person under the age of 21, or a birth parent of an
22 adopted person who is 21 years of age or over, the court shall
23 appoint a confidential intermediary. Upon petition by an adult
24 child of an adopted person who is deceased or by an adult birth
25 sibling of an adopted person whose birth parent is deceased or
26 by an adult sibling of a birth parent who is deceased, the
27 court may appoint a confidential intermediary if the court
28 finds that the disclosure is of greater benefit than
29 nondisclosure. The petition shall state which biological
30 relative or relatives are being sought and shall indicate if
31 the petitioner wants to do any one or more of the following:
32 exchange medical information with the biological relative or
33 relatives, obtain identifying information from the biological
34 relative or relatives, or to arrange contact with the
35 biological relative.

36 (c) Order. The order appointing the confidential

1 intermediary shall allow that intermediary to conduct a search
2 for the sought-after relative by accessing those records
3 described in subsection (g) of this Section.

4 (d) Fees and expenses. The court shall condition the
5 appointment of the confidential intermediary on the
6 petitioner's payment of the intermediary's fees and expenses in
7 advance of the commencement of the work of the confidential
8 intermediary.

9 (e) Eligibility of intermediary. The court may appoint as
10 confidential intermediary either an employee of the Illinois
11 Department of Children and Family Services designated by the
12 Department to serve as such, or any other person certified by
13 the Department as qualified to serve as a confidential
14 intermediary, ~~or any employee of a licensed child welfare~~
15 ~~agency certified by the agency as qualified to serve as a~~
16 ~~confidential intermediary~~. Certification shall be dependent
17 upon the confidential intermediary completing a course of
18 training including, but not limited to, applicable federal and
19 State privacy laws.

20 (f) Confidential Intermediary Council. There shall be
21 established under the Department of Children and Family
22 Services a Confidential Intermediary Advisory Council. One
23 member shall be an attorney representing the Attorney General's
24 Office appointed by the Attorney General. One member shall be a
25 currently certified confidential intermediary appointed by the
26 Director of the Department of Children and Family Services. The
27 Director shall also appoint 5 additional members. When making
28 those appointments, the Director shall consider advocates for
29 adopted persons, adoptive parents, birth parents, lawyers who
30 represent clients in private adoptions, lawyers specializing
31 in privacy law, and representatives of agencies involved in
32 adoptions. The Director shall appoint one of the 7 members as
33 the chairperson. An attorney from the Department of Children
34 and Family Services and the person directly responsible for
35 administering the confidential intermediary program shall
36 serve as ex-officio, non-voting advisors to the Council.

1 Council members shall serve at the discretion of the Director
2 and shall receive no compensation other than reasonable
3 expenses approved by the Director. The Council shall meet no
4 less than twice yearly, and shall make recommendations to the
5 Director regarding the development of rules, procedures, and
6 forms that will ensure efficient and effective operation of the
7 confidential intermediary process, including:

8 (1) Standards for certification for confidential
9 intermediaries.

10 (2) Oversight of methods used to verify that
11 intermediaries are complying with the appropriate laws.

12 (3) Training for confidential intermediaries,
13 including training with respect to federal and State
14 privacy laws.

15 (4) The relationship between confidential
16 intermediaries and the court system, including the
17 development of sample orders defining the scope of the
18 intermediaries' access to information.

19 (5) Any recent violations of policy or procedures by
20 confidential intermediaries and remedial steps, including
21 decertification, to prevent future violations.

22 (g) Access. Subject to the limitations of subsection (i)
23 of this Section, the confidential intermediary shall have
24 access to vital records maintained by the Department of Public
25 Health and its local designees for the maintenance of vital
26 records and all records of the court or any adoption agency,
27 public or private, which relate to the adoption or the identity
28 and location of an adopted person, of an adult child of a
29 deceased adopted person, or of a birth parent, birth sibling,
30 or the sibling of a deceased birth parent. The confidential
31 intermediary shall not have access to any personal health
32 information protected by the Standards for Privacy of
33 Individually Identifiable Health Information adopted by the
34 U.S. Department of Health and Human Services under the Health
35 Insurance Portability and Accountability Act of 1996 unless the
36 confidential intermediary has obtained written consent from

1 the person whose information is being sought or, if that person
2 is a minor child, that person's parent or guardian.
3 Confidential intermediaries shall be authorized to inspect
4 confidential relinquishment and adoption records. The
5 confidential intermediary shall not be authorized to access
6 medical records, financial records, credit records, banking
7 records, home studies, attorney file records, or other personal
8 records. In cases where a birth parent is being sought, an
9 adoption agency shall inform the confidential intermediary of
10 any statement filed pursuant to Section 18.3 indicating a
11 desire of the surrendering birth parent to have identifying
12 information shared or to not have identifying information
13 shared. If there was a clear statement of intent by the
14 sought-after birth parent not to have identifying information
15 shared, the confidential intermediary shall discontinue the
16 search and inform the petitioning party of the sought-after
17 relative's intent. Additional information provided to the
18 confidential intermediary by an adoption agency shall be
19 restricted to the full name, date of birth, place of birth,
20 last known address, and last known telephone number of the
21 sought-after relative or, if applicable, of the children or
22 siblings of the sought-after relative.

23 (h) Adoption agency disclosure of medical information. If
24 the petitioner is an adult adopted person or the adoptive
25 parent of a minor and if the petitioner has signed a written
26 authorization to disclose personal medical information, an
27 adoption agency disclosing information to a confidential
28 intermediary shall disclose available medical information
29 about the adopted person from birth through adoption.

30 (i) Duties of confidential intermediary in conducting a
31 search. In conducting a search under this Section, the
32 confidential intermediary shall first confirm that there is no
33 Denial of Information Exchange on file with the Illinois
34 Adoption Registry. If the petitioner is an adult child of an
35 adopted person who is deceased, the confidential intermediary
36 shall additionally confirm that the adopted person did not file

1 a Denial of Information Exchange with the Illinois Adoption
2 Registry during his or her life. If the petitioner is an adult
3 birth sibling of an adopted person or an adult sibling of a
4 birth parent who is deceased, the confidential intermediary
5 shall additionally confirm that the birth parent did not file a
6 Denial of Information Exchange with the Registry during his or
7 her life. If the confidential intermediary learns that a
8 sought-after birth parent signed a statement indicating his or
9 her intent not to have identifying information shared, and did
10 not later file an Information Exchange Authorization with the
11 Adoption Registry, the confidential intermediary shall
12 discontinue the search and inform the petitioning party of the
13 birth parent's intent.

14 In conducting a search under this Section, the confidential
15 intermediary shall attempt to locate the relative or relatives
16 from whom the petitioner has requested information. If the
17 sought-after relative is deceased or cannot be located after a
18 diligent search, the confidential intermediary may contact
19 adult biological relatives of the sought-after relative.

20 The confidential intermediary shall contact a sought-after
21 relative on behalf of the petitioner in a manner that respects
22 the sought-after relative's privacy and shall inform the
23 sought-after relative of the petitioner's request for medical
24 information, identifying information or contact as stated in
25 the petition. Based upon the terms of the petitioner's request,
26 the confidential intermediary shall contact a sought-after
27 relative on behalf of the petitioner and inform the
28 sought-after relative of the following options:

29 (1) The sought-after relative may totally reject one or
30 all of the requests for medical information, identifying
31 information or contact. The sought-after relative shall be
32 informed that they can provide a medical questionnaire to
33 be forwarded to the petitioner without releasing any
34 identifying information. The confidential intermediary
35 shall inform the petitioner of the sought-after relative's
36 decision to reject the sharing of information or contact.

1 (2) The sought-after relative may consent to
2 completing a medical questionnaire only. In this case, the
3 confidential intermediary shall provide the questionnaire
4 and ask the sought-after relative to complete it. The
5 confidential intermediary shall forward the completed
6 questionnaire to the petitioner and inform the petitioner
7 of the sought-after relative's desire to not provide any
8 additional information.

9 (3) The sought-after relative may communicate with the
10 petitioner without having his or her identity disclosed. In
11 this case, the confidential intermediary shall arrange the
12 desired communication in a manner that protects the
13 identity of the sought-after relative. The confidential
14 intermediary shall inform the petitioner of the
15 sought-after relative's decision to communicate but not
16 disclose his or her identity.

17 (4) The sought after relative may consent to initiate
18 contact with the petitioner. If both the petitioner and the
19 sought-after relative or relatives are eligible to
20 register with the Illinois Adoption Registry, the
21 confidential intermediary shall provide the necessary
22 application forms and request that the sought-after
23 relative register with the Illinois Adoption Registry. If
24 either the petitioner or the sought-after relative or
25 relatives are ineligible to register with the Illinois
26 Adoption Registry, the confidential intermediary shall
27 obtain written consents from both parties that they wish to
28 disclose their identities to each other and to have contact
29 with each other.

30 (j) Oath. The confidential intermediary shall sign an oath
31 of confidentiality substantially as follows: "I,,
32 being duly sworn, on oath depose and say: As a condition of
33 appointment as a confidential intermediary, I affirm that:

34 (1) I will not disclose to the petitioner, directly or
35 indirectly, any confidential information except in a
36 manner consistent with the law.

1 (2) I recognize that violation of this oath subjects me
 2 to civil liability and to a potential finding of contempt
 3 of court.

4 SUBSCRIBED AND SWORN to before me, a Notary Public, on (insert
 5 date)
 6 "

7 (k) Sanctions.

8 (1) Any confidential intermediary who improperly
 9 discloses confidential information identifying a
 10 sought-after relative shall be liable to the sought-after
 11 relative for damages and may also be found in contempt of
 12 court.

13 (2) Any person who learns a sought-after relative's
 14 identity, directly or indirectly, through the use of
 15 procedures provided in this Section and who improperly
 16 discloses information identifying the sought-after
 17 relative shall be liable to the sought-after relative for
 18 actual damages plus minimum punitive damages of \$10,000.

19 (3) The Department shall fine any confidential
 20 intermediary who improperly discloses confidential
 21 information in violation of item (1) or (2) of this
 22 subsection (k) an amount up to \$2,000 per improper
 23 disclosure. This fine does not affect civil liability under
 24 item (2) of this subsection (k). The Department shall
 25 deposit all fines and penalties collected under this
 26 Section into the Illinois Adoption Registry and Medical
 27 Information Fund.

28 (1) Death of person being sought. Notwithstanding any other
 29 provision of this Act, if the confidential intermediary
 30 discovers that the person being sought has died, he or she
 31 shall report this fact to the court, along with a copy of the
 32 death certificate.

33 (m) Any confidential information obtained by the
 34 confidential intermediary during the course of his or her
 35 search shall be kept strictly confidential and shall be used
 36 for the purpose of arranging contact between the petitioner and

1 the sought-after birth relative. At the time the case is
2 closed, all identifying information shall be returned to the
3 court for inclusion in the impounded adoption file.

4 (n) If the petitioner is an adopted person 21 years of age
5 or over or the adoptive parent or legal guardian of an adopted
6 person under the age of 21, any non-identifying information, as
7 defined in Section 18.4, that is ascertained during the course
8 of the search may be given in writing to the petitioner before
9 the case is closed.

10 (o) Except as provided in subsection (k) of this Section,
11 no liability shall accrue to the State, any State agency, any
12 judge, any officer or employee of the court, any certified
13 confidential intermediary, or any agency designated to oversee
14 confidential intermediary services for acts, omissions, or
15 efforts made in good faith within the scope of this Section.

16 (Source: P.A. 93-189, eff. 1-1-04.)